

110TH CONGRESS  
1ST SESSION

# S. 2454

To amend the Communications Act of 1934 to protect the privacy rights  
of subscribers to wireless communications services.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2007

Mrs. BOXER (for herself, Mr. SPECTER, and Mr. BROWN) introduced the fol-  
lowing bill; which was read twice and referred to the Committee on Com-  
merce, Science, and Transportation

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## A BILL

To amend the Communications Act of 1934 to protect the  
privacy rights of subscribers to wireless communications  
services.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Wireless 411 Privacy  
5       Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

1           (1) there are roughly 250,000,000 wireless sub-  
2       scribers in the United States, up from approximately  
3       15,000,000 subscribers just a decade ago;

4           (2) wireless phone service has proven valuable  
5       to millions of Americans because of its mobility, and  
6       the fact that government policies have expanded op-  
7       portunities for new carriers to enter the market, of-  
8       fering more choices and ever lower prices for con-  
9       sumers;

10          (3) in addition to the benefits of competition  
11       and mobility, subscribers also benefit from the fact  
12       that wireless phone numbers have not been publicly  
13       available;

14          (4) up until now, the privacy of wireless sub-  
15       scribers has been safeguarded and thus vastly dimin-  
16       ished the likelihood of subscribers receiving un-  
17       wanted or annoying phone call interruptions on their  
18       wireless phones;

19          (5) moreover, because their wireless contact in-  
20       formation, such as their phone number, have never  
21       been publicly available in any published directory or  
22       from any directory assistance service, subscribers  
23       have come to expect that if their phone rings it's  
24       likely to be a call from someone to whom they have  
25       personally given their number;

1           (6) the wireless industry is poised to begin im-  
2           plementing a directory assistance service so that  
3           callers can reach wireless subscribers, including sub-  
4           scribers who have not given such callers their wire-  
5           less phone number;

6           (7) while some wireless subscribers may find  
7           such directory assistance service useful, current sub-  
8           scribers deserve the right to choose whether they  
9           want to participate in such a directory;

10          (8) because wireless users are typically charged  
11          for incoming calls, consumers must be afforded the  
12          ability to maintain the maximum amount of control  
13          over how many calls they may expect to receive and,  
14          in particular, control over the disclosure of their  
15          wireless phone number;

16          (9) current wireless subscribers who elect to  
17          participate, or new wireless subscribers who decline  
18          to be listed, in any new wireless directory assistance  
19          service directory, including those subscribers who  
20          also elect not to receive forwarded calls from any  
21          wireless directory assistance service, should not be  
22          charged for exercising such rights;

23          (10) the marketplace has not yet adequately ex-  
24          plained an effective plan to protect consumer privacy  
25          rights;

1           (11) Congress previously acted to protect the  
 2           wireless location information of subscribers by enact-  
 3           ing prohibitions on the disclosure of such sensitive  
 4           information without the express prior authorization  
 5           of the subscriber; and

6           (12) the public interest would be served by  
 7           similarly enacting effective and industry-wide privacy  
 8           protections for consumers with respect to wireless  
 9           directory assistance service.

10 **SEC. 3. CONSUMER CONTROL OF WIRELESS PHONE NUM-**  
 11 **BERS.**

12           Section 332(c) of the Communications Act of 1934  
 13 (47 U.S.C. 332(c)) is amended by adding at the end the  
 14 following:

15           “(9) WIRELESS CONSUMER PRIVACY PROTEC-  
 16           TION.—

17           “(A) IN GENERAL.—A provider of commer-  
 18           cial mobile services, or any direct or indirect af-  
 19           filiate or agent of such a provider, may not in-  
 20           clude the wireless telephone number informa-  
 21           tion of any subscriber in any wireless directory  
 22           assistance service database unless—

23           “(i) the mobile service provider pro-  
 24           vides a conspicuous, separate notice to the  
 25           subscriber informing the subscriber of the

1 right not to be listed in any wireless direc-  
2 tory assistance service; and

3 “(ii) the mobile service provider ob-  
4 tains express prior authorization for listing  
5 from such subscriber, separate from any  
6 authorization obtained to provide such sub-  
7 scriber with commercial mobile service, or  
8 any calling plan or service associated with  
9 such commercial mobile service, and such  
10 authorization has not been subsequently  
11 withdrawn.

12 “(B) COST-FREE DE-LISTING.—A provider  
13 of commercial mobile services, or any direct or  
14 indirect affiliate or agent of such a provider,  
15 shall remove the wireless telephone number in-  
16 formation of any subscriber from any wireless  
17 directory assistance service database upon re-  
18 quest by that subscriber and without any cost  
19 to the subscriber.

20 “(C) WIRELESS ACCESSIBILITY.—A pro-  
21 vider of commercial mobile services, or any di-  
22 rect or indirect affiliate or agent of such pro-  
23 vider, may connect a calling party from a wire-  
24 less directory assistance service to a commercial  
25 mobile service subscriber only if—

1 “(i) such subscriber is provided prior  
 2 notice of the calling party’s identity and is  
 3 permitted to accept or reject the incoming  
 4 call on a per-call basis;

5 “(ii) such subscriber’s wireless tele-  
 6 phone number information is not disclosed  
 7 to the calling party; and

8 “(iii) such subscriber has not declined  
 9 or refused to participate in such database.

10 “(D) PROTECTION OF WIRELESS PHONE  
 11 NUMBERS.—A telecommunications carrier shall  
 12 not disclose in its billing information provided  
 13 to customers wireless telephone number infor-  
 14 mation of subscribers who have indicated a  
 15 preference to their commercial mobile services  
 16 provider for not having their wireless telephone  
 17 number information disclosed. Notwithstanding  
 18 the preceding sentence, a telecommunications  
 19 carrier may disclose a portion of the wireless  
 20 telephone number in its billing information if  
 21 the actual number cannot be readily  
 22 ascertained.

23 “(E) PUBLICATION OF DIRECTORIES PRO-  
 24 HIBITED.—A provider of commercial mobile  
 25 services, or any direct or indirect affiliate or

1 agent of such a provider, may not publish, in  
 2 printed, electronic, or other form, or sell or oth-  
 3 erwise disseminate, the contents of any wireless  
 4 directory assistance service database, or any  
 5 portion or segment thereof unless—

6 “(i) the mobile service provider pro-  
 7 vides a conspicuous, separate notice to the  
 8 subscriber informing the subscriber of the  
 9 right not to be listed; and

10 “(ii) the mobile service provider ob-  
 11 tains express prior authorization for listing  
 12 from such subscriber, separate from any  
 13 authorization obtained to provide such sub-  
 14 scribe with commercial mobile service, or  
 15 any calling plan or service associated with  
 16 such commercial mobile service, and such  
 17 authorization has not been subsequently  
 18 withdrawn.

19 “(F) NO CONSUMER FEE FOR RETAINING  
 20 PRIVACY.—A provider of commercial mobile  
 21 services may not charge any subscriber for exer-  
 22 cising any of the rights under this paragraph.

23 “(G) STATE AND LOCAL LAWS PRE-  
 24 EMPTED.—To the extent that any State or local  
 25 government imposes requirements on providers

1 of commercial mobile services, or any direct or  
 2 indirect affiliate or agent of such providers,  
 3 that are inconsistent with the requirements of  
 4 this paragraph, this paragraph preempts such  
 5 State or local requirements.

6 “(H) DEFINITIONS.—In this paragraph:

7 “(i) CALLING PARTY’S IDENTITY.—

8 The term ‘calling party’s identity’ means  
 9 the telephone number of the calling party  
 10 or the name of subscriber to such tele-  
 11 phone, or an oral or text message which  
 12 provides sufficient information to enable a  
 13 commercial mobile services subscriber to  
 14 determine who is calling.

15 “(ii) UNLISTED COMMERCIAL MOBILE  
 16 SERVICES SUBSCRIBER.—The term ‘un-  
 17 listed commercial mobile services sub-  
 18 scriber’ means a subscriber to commercial  
 19 mobile services who has not provided ex-  
 20 press prior consent to a commercial mobile  
 21 service provider to be included in a wireless  
 22 directory assistance service database.

23 “(iii) WIRELESS TELEPHONE NUMBER  
 24 INFORMATION.—The term ‘wireless tele-  
 25 phone number information’ means the tele-



1 phone number, electronic address, and any  
 2 other identifying information by which a  
 3 calling party may reach a subscriber to  
 4 commercial mobile services, and which is  
 5 assigned by a commercial mobile service  
 6 provider to such subscriber, and includes  
 7 such subscriber's name and address.

8 “(iv) WIRELESS DIRECTORY ASSIST-  
 9 ANCE SERVICE.—The term ‘wireless direc-  
 10 tory assistance service’ means any service  
 11 for connecting calling parties to a sub-  
 12 scribe of commercial mobile service when  
 13 such calling parties themselves do not pos-  
 14 sess such subscriber's wireless telephone  
 15 number information.”.

16 **SEC. 4. PROHIBITION ON SALE OF CELL PHONE NUMBERS**  
 17 **TO THIRD PARTIES.**

18 Section 222 of the Communications Act of 1934 (47  
 19 U.S.C. 222) is amended—

20 (1) by redesignating subsection (h) as sub-  
 21 section (i); and

22 (2) by inserting after subsection (g) the fol-  
 23 lowing new subsection:

24 “(h) PROHIBITIONS WITH RESPECT TO DISSEMINA-  
 25 TION OR COLLECTION OF CELL PHONE NUMBERS.—

1           “(1) PROHIBITION ON SALE TO THIRD PAR-  
2           TIES.—Notwithstanding the exception provided  
3           under subsection (e), no person, including any pro-  
4           vider of commercial mobile services, wireless direc-  
5           tory assistance service, or any direct or indirect affil-  
6           iate or agent of such a provider, shall sell, offer for  
7           sale, or otherwise disseminate, the wireless telephone  
8           information of any individual unless the individual  
9           provides, in writing, to such person express prior au-  
10          thorization for the sale, offer for sale, or dissemina-  
11          tion of such information.

12          “(2) PROHIBITION ON PUBLICATION OF DIREC-  
13          TORIES.—No person may publish, market for sale,  
14          or otherwise disseminate, any directory, index, or  
15          other list of the wireless telephone information of in-  
16          dividuals unless each individual whose information  
17          appears in such directory, index, or list provides, in  
18          writing, to such person express prior authorization  
19          for the publication, marketing, or dissemination of  
20          such information.

21          “(3) STATE AND LOCAL LAWS PRE-EMPTED.—  
22          This subsection supersedes any provision of a stat-  
23          ute, regulation, or rule, and any other requirement,  
24          prohibition, or remedy under State law, or the law  
25          of any political subdivision of a State, to the extent

1       that such provision, regulation, rule, requirement,  
2       prohibition, or remedy is inconsistent with this sub-  
3       section.

4           “(4) DEFINITIONS.—In this subsection:

5               “(A) WIRELESS TELEPHONE NUMBER IN-  
6               FORMATION.—The term ‘wireless telephone  
7               number information’ means the telephone num-  
8               ber, electronic address, and any other identi-  
9               fying information by which a calling party may  
10              reach a commercial mobile services customer,  
11              and which is assigned by a commercial mobile  
12              service provider to such customer, and includes  
13              the name and address of such customer.

14              “(B) WIRELESS DIRECTORY ASSISTANCE  
15              SERVICE.—The term ‘wireless directory assist-  
16              ance service’ means any service for connecting  
17              calling parties to a commercial mobile service  
18              customer when such calling parties themselves  
19              do not possess the wireless telephone number  
20              information of such customer.”.

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